	JRT OF WASHINGTON Y OF CHELAN
TIMOTHY BORDERS, et al,) No. 05-2-00027-3
Petitioners,)) FERRY COUNTY AND) FERRY COUNTY AUDITOR'S) OBJECTION TO NOTICE OF
VS.) DEPOSITION OF LOWELL) M. PORTER
KING COUNTY, et al,))
I. Ol	BJECTION
Respondents Ferry County and Cl	ydene Bollinger, Ferry County Auditor
(collectively "Ferry County"), in response	e to petitioner's notice of deposition, make the
following objection(s):	
First, Ferry County objects to the	subpoena duces tecum issued to Lowell M.
Porter, requesting he provide "All records	s of individuals contained in the Criminal History
Records information databasewho have	been convicted of felony crimesThis file
should include, but not be limited to, the f	following items" The ensuing list covers
everything from full name to crime for wh	hich individual was convicted. There is no time
limitation to what may be considered a re-	asonable time. A criminal conviction does not
ipso facto deny a person the right to vote	forever. A felony conviction supervised by the

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OBJECTION TO NOTICE OF DEPOSITION

l Department of Corrections is frequently discharged at the end of supervision and this has

little, if any, relevance to the issue of right to vote.

Petitioner could request, under RCW 10.97.050, "conviction records," however,

petitioner may not make a blanket request (by the words "but not be limited to") that could

allow for the dissemination of intimate details protected under the Washington State

Criminal Records Privacy Act, the Washington State Constitution, and the Constitution of

the United States.

To allow such a blatant and offensive disregard to the privacy rights of countless Washington State residents is an overt violation of Constitutional rights. This affects not only those individuals with criminal histories set to be exposed, but all citizens of this state, for it is their Constitution, their protections, and potentially, their privacy expectations.

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II. CRIMINAL HISTORY IS IRRELEVANT AND UNDULY BURDENSOME

Under CR 26(b), parties may obtain discovery which "relates to the claim or defense of any other party." It is incomprehensible to believe that the "information sought appears reasonably calculated to lead to the discovery of admissible evidence." Here, the requested criminal histories have no direct nexus to, nor any bearing on the right to vote in this contested election. The petitioners, by this voluminous request, engage in what amounts to nothing more than a fishing expedition, and a blanket violation of the privacy right of every voter in the state.

CR 26 also states that discovery will be limited where the court determines that the "discovery is unduly burdensome or expensive." The demand to produce "All records of individuals contained in the Criminal History Records information database" contained in the database is both unduly burdensome and the expense does not justify the extremely limited usefulness of the information. The demand makes no specification as to whether the individual convicted is alive or dead, adult or juvenile, or under current DOC

ı	supervision. The only selective criterion is that the conviction be a felony. ONLY	
5	FELONY CONVICTIONS which resulted in the loss of civil rights AND in which civil	
3	rights have not been restored, are reasonably related to this election contest.	
L,	As a result of the onerous demand for criminal histories, there follows unexpected	
5	and unpleasant negative impacts. What member of a political party would be pleased to	
6	know his criminal history is in the hands of another political party? The overreaching	
7	nature of the demand, with its indiscriminate violation of privacy rights, is intended to	
8	place a chilling effect on the fundamental right to vote. The production of the entire	
9	database records is ineffectual to promote any legitimate need for discovery in this case.	
10	A better approach would have been to obtain from the Department of Corrections, a	
11	narrow listing of those not entitled to vote, instead of this shotgun blast to the legitimate	
12	privacy right of those persons whose civil rights have been restored. The plaintiff has no	
13	need for this type of sensitive information.	
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15	III. CONCLUSION	
16	On all of the above stated grounds, defendant Ferry County, on behalf of the	
17	citizens residing in this county, as well as the citizens of the State of Washington, objects	
18	to the deposition and subpoena duces tecum issued to Lowell M. Porter, Chief of the	
19	Washington State Patrol, and request the Chief of Washington State Patrol NOT comply	
20	with the deposition or the subpoena duces tecum until the requesting party has established	
21	the proper breath of inquiry.	
55	Ferry County issues this objection as permitted under CR 34.	
23	DATED this day of January, 2005.	
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26	JAMES A. VON SAUER Ferry County Prosecuting Attorney	
27	Attorney for Ferry County and its Auditor WSBA # 26297	

